

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GEORGE SCIVOLETTI, et ux.,	:	
	:	
Plaintiffs,	:	Civil Action No. _____
v.	:	
JP MORGAN CHASE BANK, N.A., et al.,	:	
	:	
Defendants.	:	
	:	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant JP Morgan Chase Bank, N.A. (“JPMC”), by and through its counsel, Stradley, Ronon, Stevens & Young, LLP, hereby removes to the United States District Court for the District of New Jersey the action captioned George Scivoletti, et ux v. JP Morgan Chase Bank, N.A., et al., Civil Action No. MON-L-000253-10, pending in the Superior Court of New Jersey, Monmouth County, Law Division. In support hereof, JPMC states the following:

INTRODUCTION AND PROCEDURAL HISTORY

1. On or about September 10, 2009, the Scivoletti filed “Counterclaims and Third Party Complaint” (the “Complaint”), a copy of which is attached as Exhibit “A,” in an action in the Chancery Division of the Superior Court of New Jersey, Monmouth County, which was captioned United States Bank National Association as Trustee for JPM ALT 2006-A2 v. George Scivoletti, et al., Civil Action No. MON-F-6329-08.¹
2. The Complaint was then transferred to the Law Division of the Superior Court of New Jersey, Monmouth County, which thereby commenced a new civil

¹ Copies of the filings of record from the Chancery Division Action are attached hereto as Exhibits “B” through “K.”

action captioned George Scivoletti, et ux. v. JP Morgan Chase Bank, N.A., et al, Civil Action No. MON-L-000253-10 (the “State Court Action”). A copy of the docket from the State Court Action is attached as Exhibit “L.”²

3. The Complaint, which is the only pleading filed in the State Court Action, constitutes the original claim and process in the State Court Action and against the named defendants, JPMC, Jason Ferrante, Michael D. Pugliese, H. James Norman, Norman, Hubbard & Associates, Inc., and U.S. Bank National Association.

4. In the State Court Action, the Scivolettis assert claims pursuant to the Federal Truth in Lending Act (“TILA”), 15 U.S.C. § 1601, et seq., together with state law claims for common law fraud, consumer fraud pursuant to the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2, et seq., breach of contract, aiding and abetting common law fraud/concert of action, and negligence. (See Exhibit A.)

5. JPMC received a copy of the Complaint by hand delivery on March 8, 2010, as reflected by the date stamp on the first page of Exhibit A.

6. JPMC files this Notice of Removal within thirty days after its receipt of the Complaint; therefore, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

BASIS FOR REMOVAL

7. As noted above, in the State Court Action, the Scivolettis assert claims pursuant to the TILA. (See Exhibit A, Third Count, ¶¶ 1-5.)

8. Accordingly, this Court has subject matter jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1331, because the State Court Action includes claims arising under the laws of United States, namely, TILA.

² The Complaint in Foreclosure in the Chancery Division Action was dismissed without prejudice by the Order dated August 28, 2009 (see Exhibit J), and that action is marked “CLOSED” in the docket attached hereto as Exhibit “M.”

9. This removal was timely filed.

OTHER PROCEDURAL MATTERS

10. Pursuant to 28 U.S.C. § 1446(a), the United States District Court for the District of New Jersey is the appropriate court within which to file a notice of removal from the Superior Court of New Jersey, Monmouth County, Law Division, where the State Court Action is pending.

11. Pursuant to 28 U.S.C. § 1446(a), copies of "all process, pleadings, and orders" served upon JPMC in the State Court Action have been attached as Exhibit A.

12. No attorney has entered his or her appearance on behalf of the other defendants, and the docket does not reflect that any of them have been served. (See Exhibit L.) U.S. Bank National Association consents to removal of the State Court Action. (See Consent to Removal, attached as Exhibit "N.") Undersigned counsel has been unable to confirm the concurrence or non-concurrence of the other defendants prior to the time for removal pursuant to 1446(b).

13. In filing this Notice of Removal, JPMC reserves any and all defenses, objections, and exceptions, including without limitation those relating to jurisdiction, service, venue, and statute of limitations.

14. Pursuant to 28 U.S.C. § 1446(d), JPMC shall give notice of the filing of this Notice of Removal to Plaintiffs and shall file the written notice to Plaintiffs, with a copy of this Notice of Removal attached thereto, with the Superior Court of New Jersey, Monmouth County, Law Division. A copy of the Notice of Removal, without exhibits, is attached as Exhibit "O."

WHEREFORE, notice is given that the State Court Action is removed from the Superior Court of New Jersey, Monmouth County, Law Division to the United States District Court for the District of New Jersey.

Respectfully submitted,

/s/ Joseph T. Kelleher

Andrew K. Stutzman

Joseph T. Kelleher

Stradley, Ronon, Stevens & Young, LLP

Woodland Falls Corporate Park

200 Lake Drive East, Suite 100

Cherry Hill, NJ 08002

(856) 321-2400

(856) 321-2415 – fax

*Attorneys for Defendant
JP Morgan Chase Bank, N.A.*

Dated: April 7, 2010

CERTIFICATE OF SERVICE

I, Joseph T. Kelleher, hereby certify that on April 7, 2010, a true and correct copy of the foregoing Notice of Removal, with exhibits, was served via First Class U.S. Mail upon the following:

Kirsten B. Ennis, Esquire
Law Office of Kirsten B. Ennis, LLC
92 E. Main Street, Suite 497
Somerville, NJ 08876
Attorney for Plaintiffs,
George Scivoletti and Maryanne Scivoletti

Jason Ferrante
205 W. 84th Street, 3D
New York, NY 10024
Defendant

Michael D. Pugliese
146 Maple Avenue
Red Bank, NJ 07701
Defendant

H. James Norman
11 Holland Avenue
White Plains, NY 10603
Defendant

Norman, Hubbard & Associates, Inc.
11 Holland Avenue
White Plains, NY 10603
Defendant

/s/ Joseph T. Kelleher
Joseph T. Kelleher